



**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
BEAUMONT DIVISION**

**DAVID LINDSEY,**  
*Plaintiff,*

**v.**

**COMMISSIONER OF SOCIAL  
SECURITY ADMINISTRATION,**  
*Defendants.*

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**CIVIL ACTION NO: 1:04-cv-700**

**MEMORANDUM ORDER OF DISMISSAL  
AND ADOPTING THE MAGISTRATE'S REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1)(A) and the Local Rules for the United States District Court, Eastern District of Texas, Appendix B, the Court referred this matter to United States Magistrate Judge Keith F. Giblin for consideration of and recommended disposition of pretrial matters and proceedings. Judge Giblin recommended that the Court dismiss this proceeding.

On November 8, 2004, *pro se* Plaintiff David Lindsey filed this civil action in the United States District Court for the Eastern District of Texas, Beaumont Division, seeking judicial review of the Defendant Commissioner's decision to deny his application for social security benefits. *See Complaint* [Clerk's doc. #1]. Over six months later, the Defendant Commissioner filed her *Motion for Involuntary Dismissal* [Clerk's doc. #12] requesting that the Court dismiss Plaintiff's complaint for failure to prosecute his claim and to comply with the court-ordered briefing schedule. Judge

Giblin issued a *Report and Recommendation* on the dismissal of the case [Clerk's doc. #13]. He recommended that the Court grant the Commissioner's motion and dismiss this civil action.

To date, Plaintiff has not filed objections to the report. The Court therefore agrees with the Commissioner and Judge Giblin that this proceeding should be dismissed for lack of prosecution.

Accordingly, the Court **ORDERS** that the Magistrate's *Report and Recommendation on Motion to Dismiss* [Clerk's doc. #13] is **ADOPTED**. The Court further **ORDERS** that the Defendant's *Motion for Involuntary Dismissal* [Clerk's doc. #12] is **GRANTED** and Plaintiff's *Complaint* [Clerk's doc. #1] is **DISMISSED** with prejudice for want of prosecution under Federal Rule of Civil Procedure 41(b). All motions not addressed herein are denied as **MOOT** and this matter shall be closed.

SIGNED at BEAUMONT, Texas, on this the 23 day of June, 2005.

A handwritten signature in black ink, appearing to read 'Howell Cobb', written over a horizontal line.

HOWELL COBB  
UNITED STATES DISTRICT JUDGE